MONTANA LEGISLATIVE HISTORY

Chapter 662 1983

Bill H _____ S 439 Original bill & history / C

H. Committee on Local Govt

Hearing Date(s) 3/17 ___C
3/23 ___C
_____ ___C
_____ ___C

Date Out 3/24 ___C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) 2/18 ___C
_____ ___C
_____ ___C
_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

48TH LEGISLATIVE SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 256	1-22	2-4,11	TABLED	ON 2-11-83					
SB 266	1-24	2-7,11	2-11			2-11			
SB 271	1-24	2-4,11	2-11		2-11, as amended				
SB 274	1-24	2-7,16,18	2-18		2-18				
SB 289	1-26	2-9,11	2-11		2-11				
SB 293	1-26	2-9,16,18	2-18			2-18			
SB 298	1-28	2-14	2-14	2-14					
SB 349	2-3	2-11	2-11	2-11					
SB 395	2-10	2-14	2-14		2-14				
SB 395	2-15	2-16	2-16	2-16					
SB 404	2-12	2-16	2-16	2-16					
SB 410	2-14	2-16,18	2-18			2-18			
SB 418	2-15	2-18	2-18			2-18			
SB 439	2-17	2-18	2-18	2-18					
SB 446	2-16	2-18	2-18	2-18					
SB 447	2-16	2-18	2-18			2-18			

Use a separate sheet for Senate, House Bills, and Resolutions.

SENATE BILL NO. 439

INTRODUCED BY HAGER, NORMAN

BY REQUEST OF THE SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Business and Industry.
	Rereferred to Committee on Public Health, Welfare and Safety.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Local Government.
March 24, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in.

IN THE SENATE

March 28, 1983	Returned to Senate with amendments.
April 8, 1983	Second reading, amendments not concurred in.
April 11, 1983	On motion Free Conference Committee requested and appointed.
April 19, 1983	Free Conference Committee reported.
	Second reading, report adopted.
April 20, 1983	Third reading, report adopted.
	Free Conference Committee report adopted by House.
	Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 439

INTRODUCED BY Hager Norman

BY REQUEST OF THE SENATE PUBLIC HEALTH, WELFARE, AND SAFETY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SOLD; REMOVING THE PROHIBITION AGAINST THE ISSUANCE OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A BUSINESS LOCATED WITHIN 600 FEET OF A SCHOOL OR CHURCH; AMENDING SECTION 16-3-309, MCA; AND REPEALING SECTION 16-3-306, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-309, MCA, is amended to read:

"16-3-309. Sales prohibited by ordinance. (1) The counties, cities, and incorporated towns may enact ordinances defining certain areas in the counties, cities, and towns where alcoholic beverages may or may not be sold.

(2) No county, incorporated city, or incorporated town may by ordinance restrict the number of licenses that the department may issue."

NEW SECTION. Section 2. Repealer. Section 16-3-306, MCA, is repealed.

-End-

INTRODUCED BILL
SB 439

April 18, 1983

FREE CONFERENCE COMMITTEE
SENATE BILL 439
(Report No. 1)

Mr. President:

We, your Free Conference Committee on Senate Bill 439, met and considered:

Senate Bill 439, third reading copy (Blue); and
House Local Government Committee amendments dated March 24, 1983.

We respectfully recommend as follows:

That the Senate accede to House Local Government Committee amendments 1, 3 through 5 and 8;
That the House recede from House Local Government Committee amendments 2,6 (both), and 7;
That Senate Bill 439 be further amended as specified in Clerical Instructions 1 through 11; and
That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON):

1. Title, line 8.
Strike: "BY"

2. Title, line 9.
Following: line 8
Strike: "VARYING"
Insert: "THAT SUPPLANTS"

3. Page 2, line 16.
Following: "(4)"
Strike: "The" through "limits." on line 1 page 3
Insert: "Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309."

4. Page 3, line 3.
Strike: "AS"

5. Page 3, line 4.
Following: line 3

Chairman.

Strike: "PROVIDED IN 16-3-306, THE counties, cities, and"
Insert: "An"

6. Page 3, line 5.
Following: line 4
Strike: "towns"
Insert: "city"
Following: "enact"
Strike: "ordinances"
Insert: "an ordinance"
Following: "in"
Strike: "the"

7. Page 3, line 6.
Strike: line 6 it its entirety

8. Page 3, line 7.
Following: line 6
Strike: "and towns"
Insert: "its incorporated limits"

9. Page 3.
Following: line 7
Insert: "(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold.

(3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of 16-3-306(1), upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification."

10. Page 3, line 8.
Following: line 7
Strike: "(2)"
Insert: "(4)"
Following: "county"
Strike: ","
Insert: "or"
Following: "city"
Strike: ", or incorporated town"

11. Page 3, lines 11 through 13.
Strike: subsection (3) in its entirety

19

FOR THE SENATE

HAGER, CHAIR

MARBUT

NORMAN

FOR THE HOUSE

McBRIDE, CHAIR

FABREGA

KADAS

Chairman

REFERRED TO COMMITTEE ON TAXATION: 02/16/83
HEARING: 3/2/83
REPORT: 03/03/83, DO NOT PASS. REPORT ADOPTED.
BILL KILLED

SB 438 -- STORY, ET AL. -- TO PLACE CERTAIN RESTRICTIONS ON PARTICIPATION IN POLITICAL ACTIVITIES BY PUBLIC OFFICERS OR EMPLOYEES ....
BY REQUEST OF: THE SENATE COMMITTEE ON STATE ADMINISTRATION

INTRODUCED: 02/16/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/16/83
HEARING: 2/17/83
REPORT: 02/18/83, DO PASS
2ND READING: 02/21/83 AYES: 39; NAYS: 5
3RD READING: 02/23/83 AYES: 47; NAYS: 2

TRANSMITTED TO HOUSE: 02/23/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/28/83
HEARING: 3/9/83
DIED IN HOUSE COMMITTEE

SB 439 -- HAGER, NORMAN -- TO AUTHORIZE COUNTIES TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SOLD ....
BY REQUEST OF: THE SENATE PUBLIC HEALTH, WELFARE, AND SAFETY COMMITTEE

INTRODUCED: 02/16/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/16/83
REREFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 02/16/83
HEARING: 2/18/83
REPORT: 02/18/83, DO PASS
2ND READING: 02/21/83 AYES: 50; NAYS: 0
3RD READING: 02/23/83 AYES: 49; NAYS: 0

TRANSMITTED TO HOUSE: 02/23/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/28/83
HEARING: 3/17/83
REPORT: 03/24/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83, BE CONCURRED IN AYES: 61; NAYS: 8
3RD READING: 03/28/83, BE CONCURRED IN AYES: 83; NAYS: 15

RETURNED TO SENATE WITH AMENDMENTS: 03/28/83
2ND READING: 04/08/83, BE NOT CONCURRED IN AYES: 48; NAYS: 0

FREE CONFERENCE COMMITTEE APPOINTED: 4/11/83

FREE CONFERENCE COMMITTEE REPORT: 04/19/83

SENATE
2ND READING: 04/19/83, BE ADOPTED AYES: 48; NAYS: 0
3RD READING: 04/20/83, BE ADOPTED AYES: 46; NAYS: 0

HOUSE
2ND READING: 4/19/83, ADOPTED AYES: 72; NAYS: 25
3RD READING: 4/19/83, ADOPTED AYES: 64; NAYS: 32

TRANSMITTED TO GOVERNOR: 4/21/83
SIGNED: 4/27/83, CHAPTER 662

Douglas Olson, representing the Montana Senior Advisory Council, stood in support of the bill. He stated that SB 446 goes along ways to clarify the different degrees of care in our state. Mr. Olson offered an amendment which would clarify a "Roominghouse" as only with rooms, and a "Boarding House" which would provide room and board.

With no further proponents, the Chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee. Hearing none, the hearing was closed by Senator Thomas. He thanked all the people who had helped serve during the interim to put this bill together. He urged the Committee to give the bill a DO PASS recommendation.

CONSIDERATION OF SENATE BILL 447: Senator Bill Norman of Senate District 47, the chief sponsor of Senate Bill 447, gave a brief resume of the bill. This bill is an act to provide for one-step licensing of certain facilities under the Departments of Health and Environmental Sciences and Social and Rehabilitation Services and Institutions.

Senator Norman stated that this bill would make the law better with its one-step licensing.

Judy Carlson, deputy director of the Department of Social and Rehabilitation Services, stood in support of the bill. She stated that this bill is good for the people, good for the providers and good for the state.

There were no more proponents or opponents to the bill. There were no questions from the Committee. Senator Norman closed asking the Committee for a favorable recommendation as it is a"good bill".

CONSIDERATION OF SENATE BILL 439: Senator Tom Hager of Senate District 30, chief sponsor of Senate Bill 439, gave a brief resume of the bill. This bill is an act to authorize counties to enact ordinances defining areas where alcoholic beverages may or may not be sold; removing the prohibition against the issuance of a retail alcoholic beverage license to a business located within 600 feet of a school or a church. This is the bill which was requested by the Committee.

A letter was read from Mae Nan Ellingson and Phil Strope in support of the bill. They stated that this bill is an outstanding solution to a long standing problem.

There were neither proponents nor opponents to the bill at the hearing.

DISPOSITION OF SENATE BILL 439: A motion was made by Senator Norman that Senate Bill 439 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 404: The bill sponsored by Senator Stephens is an act for the designation of area agencies for senior citizen services.

This bill was passed out of Committee on February 16, 1983 with a favorable recommendation, however, the statement of intent was not adopted.

A motion was made by Senator Jacobson that the statement of intent for Senate Bill 404 be adopted. Motion carried unanimously.

Because of lack of time the committee took a recess while the Senate is in session and will reconvene during the floor break.

DISPOSITION OF SENATE BILL 446: This is the bill sponsored by Senator Thomas which is an outgrowth of SJR 34 from last session.

A motion was made by Senator Himsl that the Statement of Intent be adopted. Motion carried unanimously.

A motion was made by Senator Himsl that Senate Bill 446 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 447: Senator Norman is the chief sponsor of SB 447. This bill is an act to provide for one-step licensing of certain facilities under the Departments of Health and Environmental Sciences, Social and Rehabilitation Services, and Institutions.

Woody Wright, staff attorney, read a prepared statement of intent. A motion was made by Senator Norman that the Statement of Intent be adopted. Motion carried unanimously.

Amendments were presented which Senator Norman stated would improve the bill. A motion was made by Senator Norman that Senate Bill 447 be amended as read. Motion carried unanimously.

REP. SANDS: Would you tell me again what is the difference between sinking fund and improvement district fund.
SEN. MARBUT: The sinking fund is the fund that is used to pay the interest that the bonds are earning. That money is generated because people pay their taxes in November and that money dribbles in from the first of November to late December. Then it sits in a fund which the county invests until they clip coupons which is almost always done about the first of February. So you are looking at 30-90 days of investment of considerable amounts of dollars--short term investments by the county. That is what section 1 is about. The improvement district fund is the money within each special improvement district which is used to pay for the development and then to retire the bonds of that development as they go year by year. That is tax money, but it is kept separate. As the bonds are retired on the assessment on the property, some of that is interest rate money and some of it is bond retirement money. The most important part of that is that the special improvement district has a fund which starts out as a debt, with an obligation on the property, and works its way through to pay it off. Depending on the relationship between the interest rate earned and the amount of the actual bid, there is an item called the bond spread. So if you have land obligated to an SID; you sell the bonds; then they spread the debt throughout the district based on the sale of the bonds; then construction happens. The last three or four years, the construction b i d s have been much lower than the bond spread. The difference is money that can be invested until you get through with construction. I want that money to go back and help with the cash flow on delinquencies in that district--not countywide.

CHAIRMAN McBRIDE closed the hearing on SENATE BILL 295.

SENATE BILL 439

SENATOR, HAGER, sponsor. This bill involves the 600 foot rule which does not allow a bar or any place that dispenses liquor to be located within 600 feet of a church or school. This bill strikes the section that was known as the 600 foot rule and expands the section which strengthens the power of the local government to define certain areas where alcoholic beverages may be sold. One item was questioned on the floor of the Senate--we are giving counties power to make ordinances and counties usually work under resolution.

PROPONENTS: None

OPPONENTS: None

SENATOR HAGER closed.

QUESTIONS:

CHAIRMAN McBRIDE: We had another bill in this committee that addressed the same problem. It was different in that it said the 600 foot rule would continue in affect unless a county chose to eliminate the 600 foot rule. SENATE BILL 439 would completely eliminate the 600 foot rule but would allow that a county or municipality could set whatever they want. We might want language that would clarify that a county would be given jurisdiction but only outside the municipal boundary. Would you have any problem with the language that would clarify the jurisdiction--in other words, the county could do it outside their municipal and the municipality could do it within their boundaries.
SEN. HAGER: No.
REP. SANDS: Would you have any objection to that provision that says the 600 foot rule would remain in effect.
SEN. HAGER: It was the feeling of the Committee in the Senate that we ought to do away with the 600 foot rule altogether, and let the county address it through their zoning, etc..
REP. SANDS: Was it the intention of the subcommittee that there should be no distance unless the county affirmatively acted.
SEN. HAGER: That is right.
REP. SANDS: If somebody wanted to put in a tavern right next door between the time of the effective date of this and the county or city were to act, they could do it.
SEN. HAGER. They could to that or put it right in the same building.
CHAIRMAN McBRIDE: It appears that the county does not have the power to do it by ordinance and would have to do it by resolution. Do you have any problems in doing that?
SEN. HAGER: No.

CHAIRMAN McBRIDE closed the hearing on SENATE BILL 439.

SENATE BILL 21

SEN. HALLIGAN, sponsor. This bill would provide for a one mill levy by general purpose local governments to provide transportation services for senior citizens and the handicapped. The services can be provided by contract with public or private transportation providers or by augmenting or subsidizing transportation to handicapped persons provided by public transportation providers. The local government may establish a separate system if they wish. Local governments

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL SENATE BILL 439 DATE 3-17-83

SPONSOR SENATOR HAGER

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Mae Nan Ellingson	201 W Spruce	City of Missoula	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

SENATE BILL 295

SEN. MARBUT, sponsor. This bill had to do with making sure that interest earned on investments was credited back to a particular district fund.

REP. SALES: Moved that SENATE BILL 295 BE CONCURRED IN.

CHAIRMAN McBRIDE: How much of a problem do you think this has been?
REP. SALES: It is no more of a problem than short-term investments have been over the years.

The motion was voted on and PASSED UNANIMOUSLY.

REP. SALES will carry SENATE BILL 295 on the House floor.

SENATE BILL 439

SEN. HAGER, sponsor. This bill defines where alcoholic beverages may be sold removing prohibition of license within a 600 foot rule for sale of retail alcoholic beverages.

CHAIRMAN McBRIDE: There were a couple of amendments suggested.

1. Page 1, line 18.
Following: "counties"
Insert: "not within the limits of a city or town"

2. Page 1.
Following: line 22
Insert: "(3) An ordinance enacted by a general power county government pursuant to subsection (1) must be adopted substantially in compliance with the provisions of 7-5-103 through 7-5-107."

The first amendment would say that the jurisdiction of the county would not exist into the city or the town limits. And the county could not fall within the city limits.

LEE HEIMAN was asked to explain the second amendment. He said that a general power county doesn't have the power to make an ordinance. Only self-governing counties do.

REP. SALES: Moved that the amendments be accepted.

The motion was voted on and PASSED UNANIMOUSLY.

REP. HAND: Moved that SENATE BILL 439 BE CONCURRED IN AS AMENDED.

REP. SALES: The bill that REP. FABREGA had said the local government could adopt an ordinance changing the state law. If they wanted to make it less than 600 feet, they could. This law works the other way around. It bothers me because as of October, every city and town and every county in the state is going to have to adopt a resolution or an ordinance if they want a restriction. Could we amend this bill so the 600 foot rule stays in affect until the local government wants to make a decision. I think that feature is going to cause a lot of problems.
CHAIRMAN McBRIDE: When SENATOR HAGER brought this to my attention, I talked to REP. FABREGA to see which one would work better. His decision was to request that his bill be tabled in the Senate.
REP. BERTELSEN: I think local governments are used to the fact that they operate under a set of laws and they feel very comfortable that way. With REP. FABREGA'S bill, they stay under it unless they take a positive action to go out from under it. I would just as soon kill SENATE BILL 439.
REP. KADAS: If we table this, someone is going to take REP. FABREGA'S off. This all has to happen before the 70th day.

REP. BERTELSEN: Moved to TABLE SENATE BILL 439.

CHAIRMAN McBRIDE: If we run into problems trying to get REP. FABREGA'S bill off the table, do you want to leave SENATE BILL 439 on the table or do you want to come back and try to amend it.
REP. SALES: LEE HEIMAN could have an amendment ready.
REP. VINGER: If we amend this, it has to be through the House.

The motion to TABLE SENATE BILL 439 was voted on and PASSED UNANIMOUSLY.

CHAIRMAN McBRIDE closed the EXECUTIVE SESSION.

REP. SALES: There has been a great deal of misunderstanding about LYNCH'S bill to change the fiscal year. I have talked to so many people who think that if you pay that 125% that first year that the next year you will only have to pay 75%
REP. WALDRON: If you move it back three months, it will take care of the problem.
REP. SALES: That is not the way to go.
REP. WALDRON: How would you suggest amending it?
REP. SALES: It is not easy to move the fiscal year without moving the tax collection along with it without collecting taxes in advance.

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 24, 1983

The meeting of the Local Government Committee held on March 24, 1983, at 2:45 p.m. in Room 224A of the Capitol Building was called to order by Chairman Kathleen McBride. All members were present except Reps. Keenan, Neuman, Sands, and Switzer, who were absent.

EXECUTIVE SESSION

SENATE BILL 439

SEN. HAGER, sponsor. This bill is an act to authorize counties to enact ordinances defining areas where alcoholic beverages may or may not be sold; removing the prohibition against the issuance of a retail alcoholic beverage license to a business located within 600 feet of a school or church.

CHAIRMAN McBRIDE: We found out that REP. FABREGA'S bill in the Senate has never had a hearing. We decided to go ahead and amend REP. FABREGA'S bill to SENATOR HAGER'S bill. LEE HEIMAN will discuss the amendments (EXHIBIT 1).

LEE HEIMAN: I took REP. FABREGA'S bill, added Amendment 5 as section 1 and amended the title accordingly. We will have to strip the amendments we made previously.

REP. KITSELMAN: Moved to RECONSIDER our action to TABLE SENATE BILL 439.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. DARKO: Moved that the previous amendments BE STRIPPED from SENATE BILL 439.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. DARKO: Moved that these amendments be accepted.

CHAIRMAN McBRIDE: I have run these amendments by SENATOR HAGER and REP. FABREGA. Neither one had any problem with them. The major thing that SENATOR HAGER wanted to make sure was that local governments could eliminate the 600 foot rule if they wanted to.

REP. HANSEN: Wasn't the reason for previous action--we wanted the loophole between the time the bill was passed and the county setting up some rules--we felt that should stay in there.

CHAIRMAN McBRIDE: The way the bill is without the amendments, unless the local government takes affirmative action, there is no 600 foot rule.

The motion to accept the amendments was voted on and PASSED with REP. WALLIN voting no.

REP. HAND: Moved that SENATE BILL 439 BE CONCURRED IN AS AMENDED.

LEE HEIMAN: What the bill says--there is a 600 foot limit. A local government may reduce or eliminate that 600 foot limit as a general law. Unless they do something affirmative, there is a 600 foot limit.

The motion was voted on and PASSED with REP. WALLIN voting no.

REP. FABREGA will carry the bill in the House.

The meeting adjourned at 3 p.m.

Kathleen McBride
CHAIRMAN KATHLEEN McBRIDE

Jeri Burnett
Secretary

Ex 1

SB439

AMEND SENATE BILL 439

1. Title, line 7.
Following: line 6
Insert: ", CITIES, AND TOWNS"

2. Title, line 8.
Following: "SOLD"
Strike: "; REMOVING"
Insert: "BY VARYING THE"

3. Title, line 11.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-306 AND"
Following: "MCA;"
Strike: "AND REPEALING SECTION"

4. Title, line 12.
Strike: line 12 in its entirety

5. Page 1.
Following: line 14
Insert: "Section 1. Section 16-3-306, MCA, is amended to read:

"16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) ~~and~~, (3), and (4), no retail license may be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate his entrances any closer than the existing entrances and if the establishment:

(a) was located on the site before the place of worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

(4) The governing body of a county, for that area of the county not within the corporate limits of a city or town, or the governing body of an incorporated city or town may provide general exceptions that would reduce or eliminate the 600-foot rule in subsection (1).The exception must be adopted by ordinance, except if a county does not have general purpose

ordinance making powers it must be adopted by resolution. The ordinance or resolution must specify the reason why an exception is necessary and the distance in feet that applies within the county or the city or town limits.""
Renumber: subsequent section

6. Page 1, line 16.
Following: "(1)"
Strike: "The"
Insert: "As provided in 16-3-306, the"

6. Page 1, line 18.
Following: "counties"
Insert: "not within the limits of a city or town"

7. Page 1.
Following: line 22
Insert: "(3) An ordinance as used in subsection (1) means a resolution if a county does not have the power to enact general purpose ordinances."

8. Page 1, lines 23 and 24.
Strike: section 2 in its entirety

STANDING COMMITTEE REPORT

March 24, 1993

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 439

third reading copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE COUNTIES TO ENACT ORDINANCES DEFINING AREAS WHERE ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SOLD; REMOVING THE PROHIBITION AGAINST THE ISSUANCE OF A RETAIL ALCOHOLIC BEVERAGE LICENSE TO A BUSINESS LOCATED WITHIN 600 FEET OF A SCHOOL OR CHURCH; AMENDING SECTION 16-3-309, MCA; AND REPEALING SECTION 16-3-306, MCA."

Respectfully report as follows: That SENATE Bill No. 439

BE AMENDED AS FOLLOWS:

1. Title, line 7.
Following: line 6
Insert: ", CITIES, AND TOWNS"

2. Title, line 8.
Following: "SOLD"
Strike: "; REMOVING"
Insert: "BY VARYING THE"

~~XXXXX~~
~~DO PASS~~

KATHLEEN McBRIDE Chairman.

STATE PUB. CO.
Helena, Mont.

March 24, 19 83

3. Title, line 11.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 16-3-306 AND"
Following: "MCA;"
Strike: "AND REPEALING SECTION"

4. Title, line 12.
Strike: line 12 in its entirety

5. Page 1.
Following: line 14
Insert: "Section 1. Section 16-3-306, MCA, is amended to read:

"16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) and (3), and (4), no retail license may be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the licensee does not relocate his entrances any closer than the existing entrances and if the establishment:

(a) was located on the site before the place of worship or school opened; or

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937.

(3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption.

(4) The governing body of a county, for that area of the county not within the corporate limits of a city or town, or the governing body of an incorporated city or town may provide general exceptions that would reduce or eliminate the 600-foot rule in subsection (1). The exception must be adopted by ordinance, except if a county does not have general purpose ordinance making powers it must be adopted by resolution. The ordinance or resolution must specify the reason why an exception is necessary and the distance in feet that applies within the county or the city or town limits."
Renumber: subsequent section

6. Page 1, line 16.
Following: "(1)"
Strike: "The"
Insert: "As provided in 16-3-306, the"

March 24, 19 83

6. Page 1, line 18.
Following: "counties"
Insert: "not within the limits of a city or town"

7. Page 1.
Following: line 22
Insert: "(3) An ordinance as used in subsection (1) means a resolution if a county does not have the power to enact general purpose ordinances."

8. Page 1, lines 23 and 24.
Strike: section 2 in its entirety

AND AS AMENDED
BE CONCURRED IN

KATHLEEN McBRIDE
Chairman.

STATE PUB. CO.
Helena, Mont.